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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON**

TOM GARDNER,)	Case No. CV-11-3050-RHW
)	
Plaintiff,)	COMPLAINT FOR VIOLATION
)	OF FEDERAL FAIR DEBT
vs.)	COLLECTION PRACTICES ACT
)	
NORTHSTAR LOCATION))	
SERVICES, LLC,)	
)	
Defendant.)	

NATURE OF ACTION

1. This is an action brought under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, and the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 15 U.S.C. § 1692k(d), 47 U.S.C. § 227(b)(3), 28 U.S.C. § 1331, and 28 U.S.C. § 1367(a).

COMPLAINT FOR VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT-1

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PARTIES

FACTUAL ALLEGATIONS

1 which the money, property, insurance, or services that are the subject of the
2 transaction were incurred primarily for personal, family, or household purposes.
3

4 10. Defendant uses instrumentalities of interstate commerce or the mails
5 in a business the principal purpose of which is the collection of any debts, and/or
6 regularly collects or attempts to collect, directly or indirectly, debts owed or due,
7 or asserted to be owed or due another.
8

9 11. Within one (1) year preceding the date of this Complaint, Defendant
10 made and/or placed a telephone call to Plaintiff's cellular telephone number, in
11 effort to collect from Plaintiff an obligation, or alleged obligation, owed or due,
12 or asserted to be owed or due a creditor other than Defendant.
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15 12. Within one (1) year preceding the date of this Complaint, Defendant
16 willfully and knowingly utilized an automatic telephone dialing system to make
17 and/or place a telephone call to Plaintiff's cellular telephone number, in effort to
18 collect from Plaintiff an obligation, or alleged obligation, owed or due, or asserted
19 to be owed or due a creditor other than Defendant.
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22 13. Defendant placed repeated and continuous telephone calls to
23 Plaintiff's cellular telephone for the purpose of harassing, annoying and/or
24 abusing Plaintiff. (15 U.S.C. § 1692d(5)).
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1 14. On or about January 25, 2010, Defendant, in connection with an
2 attempt to collect an alleged debt from Plaintiff, communicated with Plaintiff's
3 neighbor, Dennis Charlotte, for purposes other than obtaining location
4 information, and at such time, disclosed its identity to said third party without a
5 request for such information being made, and furthermore, disclosed to said third
6 party that Plaintiff owed an alleged debt. (15 U.S.C. §§ 1692b, 1692b(1),
7 1692b(2), 1692c(b)).
8
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11 15. Defendant, in connection with the collection of an alleged debt from
12 Plaintiff, placed calls to Plaintiff's cellular telephone on Monday 1/24/11 at 2:51
13 P.M. and Tuesday 1/25/11 @ 10:52 AM, and in each such instance, left voicemail
14 messages for Plaintiff in which Defendant failed to disclose its true corporate
15 and/or business name, and further failed to notify Plaintiff the calls were from a
16 debt collector. (15 U.S.C. §§ 1692d(6), 1692e(11)).
17
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20 16. Defendant, in connection with the collection of an alleged debt from
21 Plaintiff, placed calls to Plaintiff's cellular telephone on 1/25/11 at 3:34 P.M., as
22 at such time, left Plaintiff a voicemail message in which Defendant represented
23 that the call was with regard to a "serious time sensitive matter" that required that
24 Plaintiff "call [Defendant] back immediately." In so doing, Defendant
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1 misrepresented a heightened sense of urgency for the purpose of deceiving
2 Plaintiff into returning the call. (15 U.S.C. § 1692e(11)).
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4 17. Defendant placed multiple non-emergency calls to Plaintiff's cellular
5 telephone, without the prior express consent of Plaintiff, using an automatic
6 telephone dialing system. (47 U.S.C. 227(b)(1)(A)(iii)).
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8 18. Defendant's actions constitute conduct highly offensive to a
9 reasonable person.
10

11 COUNT I

12 19. Plaintiff repeats and re-alleges each and every allegation contained
13 above.
14

15 20. Defendant violated the FDCPA as detailed above.
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17 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 18 a) Adjudging that Defendant violated the FDCPA;
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20 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,
21 in the amount of \$1,000.00;
22
23 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
24
25 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
26 this action;
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e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law;

f) Awarding such other and further relief as the Court may deem just and proper.

COUNT II

21. Plaintiff repeats and re-alleges each and every allegation contained above.

22. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) by willfully and knowingly utilizing an automatic telephone dialing system to make and/or place a telephone call to Plaintiff's cellular telephone number.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii);
- b) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C. § 227(b)(3)(B), in the amount of \$500.00 per violation;
- c) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C. § 227(b)(3)(C), in the amount of \$1,500.00 per violation;
- d) Awarding Plaintiff actual damages, pursuant to 47 U.S.C. § 227(b)(3)(B);

1 e) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
2 this action;

3
4 f) Awarding Plaintiff any pre-judgment and post-judgment interest as
5 may be allowed under the law.
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7 **TRIAL BY JURY**

8 Plaintiff is entitled to and hereby demands a trial by jury.

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10 Respectfully submitted this 2nd day of May, 2011.
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12
13 s/Jon N. Robbins
14 Jon N. Robbins
15 WEISBERG & MEYERS, LLC
16 Attorney for Plaintiff
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